

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,
v. Case Nos. 18-cr-20251

CHARLES ALOKWU,

Defendant.

/

ORDER DESIGNATING DEFENDANT'S "MOTION AND REQUEST FOR NUNC PRO TUNC ORDER" AS WITHDRAWN

On November 1, 2022, Defendant Charles Alokwu, *pro se*, filed a "Motion and Request for Nunc Pro Tunc Order" in both of his criminal files, arguing that the court erred in enhancing his sentence under 18 U.S.C. § 3147 in Case Number 18-cr-20251. (09-20130, ECF No. 41; 18-cr-20251, ECF No. 38.) He seeks for the court to issue a nunc pro tunc order rectifying his sentence so that it reflects the terms of his plea agreement. (18-cr-20251, ECF No. 38, PageID.252.) On April 14, 2023, the court issued an order, notifying Defendant of its intent to construe his motion as one for relief from judgment under 28 U.S.C. § 2255 and giving Defendant the opportunity to withdraw or amend his motion. (09-20130, ECF No. 42; 18-cr-20251, ECF No. 39.) The court further terminated without prejudice Defendant's motion in Case Number 09-cr-20130, as it did not concern his sentence in that case. (*Id.*)

On May 3, 2023, Defendant filed a "Response to Court's Order [RE: ECF No. 39] and Motion for Clarification and/or Withdrawal." (18-cr-20251, ECF No. 39.) The filing expresses dissatisfaction with the court's reclassification and maintains that a nunc pro

tunc request is the proper vehicle for the relief Defendant seeks. (Id. at PageID.258–59.) However, the response further indicates:

Since, [sic] the Court has construed and classified Mr. Alokwu's request as a § 2255, it would be fruitless to proceed further. Even though the jail-time issue is *prima facie*. Wherefore, if the Court refuses to rule on the nunc pro tunc request for the sentence to be correct to apply the jail-time credits as argued[,] Mr. Alokwu shall withdraw the construed and reclassified court directed [sic] § 2255.

(Id. at PageID.258–59.)

Because the court has already resolved to construe Defendant's Motion and Request for Nunc Pro Tunc Order as a motion under 28 U.S.C. § 2255 (ECF No. 39), and Defendant has provided no basis for the court to revisit that decision, the court will deem Defendant's motion withdrawn. Accordingly,

IT IS ORDERED that, pursuant to his "Response to Court's Order [RE: ECF No. 39] and Motion for Clarification and/or Withdrawal" (ECF No. 40), Defendant's "Motion and Request for Nunc Pro Tunc" (ECF No. 38) is WITHDRAWN.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: May 10, 2023

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, May 10, 2023, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(810) 292-6522